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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/644,060	08/20/2003	Brad W. Blumberg	SMTR-002/01US	SMTR-002/01US 4358	
22903 COOLEY GO	7590 03/16/2007 DWARD KRONISH LLP	EXAMINER			
ATTN: PATENT GROUP Suite 500 1200 - 19th Street, NW WASHINGTON, DC 20036-2402			FIGUEROA, MARISOL		
			ART UNIT	PAPER NUMBER	
			2617		
			MAIL DATE	DELIVERY MODE	
			03/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/644,060	BLUMBERG ET AL.		
Examiner	Art Unit		
Marisol Figueroa	2617		

The MALING DATE of this communication appears on the cover sheet with the correspondence address THE REPLY FILED 15 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.  1.		Marisol Figueroa	2617	
1. ☐ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavil, or or identication, places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.13(; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) ☐ The period for reply expiresmonths from the mailing date of the final rejection.  b) ☐ The period for reply expires on: (1) the mailing date of the final rejection.  Examiner Note: (1 box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MEPE 706 37(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.137(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in the final rejection, even if timely flied, may reduce any earmed patient term adjustment. See 37 CFR 1.704(b).  MOTICE OF AFPEAL  ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within the time period set forth in 37 CFR 41.37(e)). Can appeal (37 CFR 41.37(a)). A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)). The proposed almendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise the issues that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise the issues that would require further consideration and/or search (see NOTE below);  (c) ☐ They are are oddement of place the application in bett	The MAILING DATE of this communication appe	ears on the cover sheet with the c	orrespondence add	ress
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have been filed is the date for purposes of determining the period of extension and the corresponding unto 1 hr fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action: or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL  1. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3.	b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire Examiner Note: If box 1 is checked, check either box (a) or TWO MONTHS OF THE FINAL REJECTION. See MPEP 7	Advisory Action, or (2) the date set forth ater than SIX MONTHS from the mailin (b). ONLY CHECK BOX (b) WHEN THE 06.07(f).	g date of the final rejecti E FIRST REPLY WAS F	on. ILED WITHIN
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)).  4 The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5 Applicant's reply has overcome the following rejection(s):  6 Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  7 For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  8 The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e)  9 The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be ent	have been filed is the date for purposes of determining the period of ex under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office late may reduce any earned patent term adjustment. See 37 CFR 1.704(b)	tension and the corresponding amount shortened statutory period for reply orig r than three months after the mailing da	of the fee. The appropri inally set in the final Offi	ate extension fee ce action; or (2) as
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<ul> <li>7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected: 1-11 and 18-23.  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</li> <li>9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</li> <li>10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</li> <li>REQUEST FOR RECONSIDERATION/OTHER</li> <li>11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.</li> <li>12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)</li> </ul>	<ul> <li>4.  The amendments are not in compliance with 37 CFR 1.1</li> <li>5.  Applicant's reply has overcome the following rejection(s)</li> <li>6.  Newly proposed or amended claim(s) would be a</li> </ul>	21. See attached Notice of Non-Co		
<ul> <li>AFFIDAVIT OR OTHER EVIDENCE</li> <li>8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</li> <li>9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</li> <li>10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</li> <li>REQUEST FOR RECONSIDERATION/OTHER</li> <li>11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.</li> <li>12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)</li> </ul>	7.  For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 1-11 and 18-23.		II be entered and an e	explanation of
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<u> </u>	See Continuation Sheet.		n condition for allowa	nce because:
	<u> </u>	(F 10/36/06) Paper No(s).		

Application/Control Number: 10/644,060

Art Unit: 2617

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed on 2/15/2007 have been fully considered but they are not persuasive.

The Applicant argues (see pages 7-8 of the remarks) that there would have been no motivation to combine the mobile terminal location feature of the Kimoto system with the system of Wharton, because, Wharton expressly provides for a system that <u>can only be used</u> without being present at the geographic location being queried, since for example, Wharton discloses that the invention is aimed at reducing the necessity of a prospective buyer from having to travel to a property to find out information about that property (for example, col.

4, lines 42-46)".

However, the Examiner respectfully disagrees. Wharton's system is not only concentrated in reducing the time the user spends traveling to homes for a first-time look. Wharton discloses in column 4, lines 42-46, other aspects of his invention are aimed to reducing database browsing, comparison of multiple selection criteria, reducing human interaction, etc. and therefore does not limit the invention to only being used without being present at the geographic location.

Furthermore, Wharton suggests that the wireless communication device (i.e., PDA) may support a transportation application like global positioning data to obtain instructions for how to get to an address from a current location and does not discourage using the location of the mobile terminal to tailor the search for real estate properties.

LESTER G. KINCAID
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